

Notice of Allowability

Application No.

10/706,634

Examiner

Patricia C. Mallari

Applicant(s)

NEEL ET AL.

Art Unit

3735

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 8/23/06.
2. ☒ The allowed claim(s) is/are 25-38 and 58-62.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

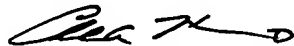
* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 8/15/06
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.


Charles A. Marmor, II
SPE, Art Unit 3735

REASONS FOR ALLOWANCE

Claims 25-38 and 58-62 are allowed. The allowability of claims 25-32 was addressed in a previous Office action filed 12/15/05 and is repeated below.

The following is an examiner's statement of reasons for allowance:

Regarding claims 25-32, the prior art of record fails to teach or fairly suggest a method of measuring glucose in a blood sample wherein the meter validates the fill-detect electrodes on the test strip by applying a second validation voltage between the fill-detect electrodes while a first validation voltage is applied between the working and counter electrodes on the test strip in order to validate the working and counter electrodes. US Patent No. 5,438,271 to White et al. teaches a method of measuring glucose in a blood sample wherein the meter validates the working 14 and counter 12 electrodes by applying a first validation voltage between the working and counter electrodes (col. 3, lines 39-54 and lines 60-67; col. 4, lines 24-35; fig. 3 of White). However, White fails to teach applying a second validation voltage between fill-detect electrodes while the first validation voltage is applied between the working and counter electrodes.

Regarding claims 33-38 and 58-62, US Patent No. 5,278,074 to Castellano in view of US Patent No. 6,591,125 to Buse et al., US Patent No. 6,733,655 to Davies et al. and US Patent Application Publication No. 2005/0059872 to Shartle et al., as set forth in the previous Office action teach all of the claimed method except for the auto-on current developing an auto-on voltage drop across the auto-on conductor. Specifically, Davies teaches inserting a test strip into a meter being in a sleep mode, wherein the

meter detects an auto-on current through the auto-on conductor 10 and responsively enters an active mode. Davies is silent as to whether the auto-on current develops an auto-on voltage drop across the conductor 10. None of the other references address the details of an auto-on conductor. Therefore, the prior art of record fails to teach or fairly suggest a method of using a test strip to test a blood sample, wherein the meter detects an auto-on current through the auto-on conductor and responsively enters an active mode and the auto-on current develops an auto-on voltage drop across the auto-on conductor.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia C. Mallari whose telephone number is (571) 272-4729. The examiner can normally be reached on Monday-Friday 10:00 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II can be reached on (571) 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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